

Before the  
**Federal Communications Commission**  
 Washington, D.C. 20554

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JAN 14 2004

Federal Communication Commission  
Bureau / Office

In the Matter of

) MM Docket No. \_\_\_\_\_

) RM- \_\_\_\_\_

Amendment of Section 73.202(b)

(Table of Allotments)

FM Broadcast Stations

(Windsor and Bethel, NC

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Federal Communications Commission  
Office of the SecretaryTo: Assistant Chief, Media Bureau  
(Allocations)Federal Communications Commission  
Office of the Secretary**PETITION FOR RULE MAKING**

Eure Communications, Inc. ("Eure"), by its attorneys, and pursuant to Section 1.420(i) of the Commission's Rules, hereby respectfully files this Petition for Rule Making which requests the Commission to modify the Table of Allotments (47 C. F. R. §73.202 (b)) to change the allotment of FM Channel 255A from Windsor, North Carolina, to Bethel, North Carolina, with a concurrent modification of the license of WIAM-FM, Windsor, North Carolina, to operate on Channel 255C3 at Bethel, North Carolina. In support of Eure's proposal, the following is shown:

**Background**

1. WIAM-FM, Channel 255A, Windsor, North Carolina, is licensed to Lifeline Ministries, Inc. ("Lifeline"). On December 10, 2003, an application (File No. BALH-20031210ACD) was filed seeking consent to assignment of license of WIAM-FM from Lifeline to Eure. Lifeline is joining in this petition. Eure requests the Commission to delete Channel 255A from Windsor and to reallocate it to Bethel, North Carolina, with a concurrent modification of the license of WIAM-FM to operate on Channel 255C3 at Bethel. This change is permissible under Section 1.420(i) of the Rules, which authorizes the Commission to modify the license or

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permit of an FM station to specify a new community of license where the amended allotment would be mutually exclusive with the licensee's present allotment.

2. Two factors must be demonstrated in order to change a station's city of license in a rule making proceeding: (1) the channel changes must be mutually exclusive, and (2) the rule making must not deprive a community of an existing service representing its only local transmission service. The Commission has stated that in making the determination of whether to amend the Table of Assignments it would "take into account the totality of the service improvements resulting from a proposed change in community of license in determining whether an allotment proposal should be approved." See Modification of FM and TV Authorizations (New Community of License), 4 FCC Rcd 4870 [66 RR 2d 877] (1989). Eure's proposal is consistent with the rules and Commission policies, i.e., the channel changes are mutually exclusive, and as shown *infra*, the rule making will not deprive Windsor of its only local transmission service. The proposal will result in bringing a first local service to Bethel, North Carolina.

#### **Expression of Continuing Interest**

3 If the Commission allots Channel 255C3 to Bethel, Eure will timely file an application for a minor change construction permit to operate WIAM-FM at Bethel, and upon grant, will promptly construct and operate the facilities.

4. Attachment A, Technical Comments, which is incorporated herein by reference, provides the Commission with technical information about the proposed Windsor/Bethel channel exchange. The proposed reference coordinates are North Latitude 35° 48' 25", West Longitude 77° 22' 44". In MB Docket 03-47, the Commission ordered the licensee of WKSK, South Hill,

Virginia, to operate on Channel 270A in lieu of Channel 255A. This action clears the use of Channel 255C3 at Bethel.<sup>1</sup>

### **Windsor, North Carolina**

5 According to the U.S. Census, Windsor had a 2000 population of 2,283 persons. Windsor has three commercial broadcast stations, WIAM-FM, WBTE(AM) on 990 kHz and WURB(FM), on 97.7 MHz. Windsor will not be deprived of its only transmission service if the Commission reallocates Channel 255C3 to Bethel, North Carolina, since two commercial radio stations will remain licensed to Windsor, North Carolina.

### **Bethel, North Carolina**

6. Bethel, North Carolina, is located in northern Pitt County. The town was incorporated in 1873, and has a mayor and town council. The 2000 census lists Bethel as having 1,681 residents. According to its website, "bethelnc.org," Bethel began as a settlement on the site of a small Indian village. The original settlers are rumored to have migrated from Martin County. The original land grants are dated from 1750 through 1775 and show that Bethel was situated on three different tracts of land, which the town still occupies today. In 1840, the U.S. Postal Service established a post office at the crossroads in Bethel with bi-weekly mail service to Greenville. The Postal Service named the post office "Bethel" after the Bethel Methodist Church, which was established in 1814. Bethel is primarily a farm center with a variety of other businesses. The oldest locally-owned continuous business was established in 1877.

7. Bethel has a police department, volunteer fire department, rescue squad, sanitation department, streets department and water and sewer department. Bethel has its own U. S. Post

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<sup>1</sup> Commission records reflect that on December 23, 2003, an application (File No. BPH-20030828APF) was granted to change the operating channel of WSKS to Channel 270A.

Office and ZIP Code, i.e., 27812. Bethel has commercial businesses.<sup>2</sup> There is Bethel Elementary School, civic clubs and organizations such as the Masons and Rotary, Boy Scouts and Cub Scouts. Bethel has a library. Therefore, Bethel possesses the requisite "social, economic and cultural components that are commonly associated with community status." See, *FM Table of Allotments (East Hemet, CA)*, 67 RR 2d 146, 147 (1989). WIAM-FM would bring first local radio service to Bethel, since Bethel currently does not have a local station.

8. Bethel is not located inside any Urbanized Area. The Technical Comments show that from the reference site, less than 50% of the Greenville, North Carolina, Urbanized Area is within the theoretical 70 dBu contour. In light of this, there is no need for Eureka to make a showing pursuant to *Faye and Richard Tuck*, 3 FCC Rcd 5374 (1998), and *RKO General (KFRC)*, 5 FCC Rcd 3222 (1990) ("*Tuck-KFRC*") that stations licensed to the Urbanized Area should not be attributed to Bethel. Bethel warrants a preference for first local service.

#### **Section 307(b) Analysis**

9. In determining which proposal will better serve the public interest, the Commission is guided by the allotment priorities set forth in *Revision of FM Assignment Policies and Procedures*, 90 FCC 2d 88 (1982). The FM allotment priorities are: (1) first full-time aural service; (2) second full-time aural service; (3) first local service; and (4) other public interest matters [Co-equal weight is given to priorities (2) and (3).] Under priority three, first local service, Bethel warrants a preference over retaining WIAM-FM as a third local service to Windsor. Retaining WIAM-FM at Windsor would not trigger priority three because Windsor already has three stations.

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<sup>2</sup> See the attached representative list of businesses (Attachment B).

### **Other Public Interest Considerations**

10. In changing its community of license, WIAM-FM proposes to relocate its transmitter site. The Technical Comments demonstrate that the 60 dBu (1.0 mV/m) contour of WIAM-FM at Windsor covers 2,529.6 square kilometers, encompassing a population of 44,005 persons. WIAM-FM operating at Bethel would cover 4,798.29 square kilometers and 215,225 persons – approximately 5 times population served by the licensed facilities. The Technical Comments indicate that there is no loss area resulting from the proposed WIAM-FM change receiving fewer than five aural services. Therefore, the loss area is well-served. See, FM Table of Allotments (*Douglas, GA, et al.*), 10 FCC Rcd 7706, 7707 (1995) (where loss area received service from at least five full-time reception services, Commission found area to be "well-served"). See also *Wray and Otis, Colorado*, 13 FCC Rcd 2612 (1998). The reallocation to Bethel will result in a significant gain in population served by the station, thus other grounds exist for granting this proposal. As noted above, since Windsor will continue to enjoy service from WBTE and WURB, Eure's proposal will not deprive Windsor of its only local transmission service. The Commission has made allotment changes where only a daytime AM station remained in a community. See *Johnstown and Altamont, New York*, 13 FCC Rcd 12463 (1998) [WIZR, Johnstown, operating with 1 kW day and 28 watts at night]. Here, there will be two stations remaining in Windsor. The public interest would be served by reallocating Channel 255C3 to Bethel, North Carolina, since it would provide Bethel with its first local aural transmission service and enable WIAM-FM to serve greater population.

11. As shown in the attached Technical Comments, Bethel would be entirely covered by a 70 dBu or better signal from WIAM-FM. Thus, modification of the license for WIAM-FM would be consistent with the Commission's city-grade contour coverage requirements.

WHEREFORE, Eure respectfully requests the Commission to amend Section 73.202(b) of the Commission's Rules, as follows:

	<u>Present</u>	<u>Proposed</u>
	<b>North Carolina</b>	
Windsor	249A, 255A	249A <sup>3</sup>
Bethel	NONE	255C3

**Conclusion**

12. Eure requests the Commission to allot Channel 255C3 to Bethel, North Carolina, and modify the license of WIAM-FM to operate on FM Channel 255C3 at Bethel. If the Commission so modifies the license of WIAM-FM, upon acquisition of WIAM-FM, Eure will timely file an application for minor change

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<sup>3</sup> WBTE(AM) is to remain licensed to Windsor.

construction permit to operate WIAM-FM at Bethel, and upon grant thereof, Eure will construct the new facilities and operate WIAM-FM at Bethel, North Carolina.

Respectfully submitted,

**EURE COMMUNICATIONS, INC.**

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Its Attorney

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January 13, 2004

**ATTACHMENT A**

**Technical Comments**



**Technical Comments**  
**Rule Making Request**  
**To Reallocate 255A Windsor, NC**  
**To 255C3 Bethel, NC**  
**December 2003**

These Technical Comments are prepared on behalf of Eure Communications, Inc , ("Eure"), which is a party to an application to acquire the assets and license of WAIM-FM, Windsor, NC and the licensee is joining in the petition for rule making. WAIM-FM operates as a class maximum facility with 6 KW from 100 meters HAAT. Eure is requesting that Channel 255A at Windsor, NC be reallocated to Bethel, NC and be increased to Class C3 and that WIAM-FM be ordered to Bethel, NC.

**ALLOCATION**

From the Bethel, NC reference coordinates of North Latitude 35° 48' 25" and West Longitude 77° 22' 44" all Section 73.207 spacing requirements are met. Exhibit 1 is an allocation study to substantiate this clearance. Please note that WKSK-FM, South Hill, VA has been ordered to migrate from channel 255C3 to Channel 270A per Docket 03-47 released 07/03/03 Exhibit 2 is the 70 dBu uniform terrain 23.2 KM city grade contour. 100% of Bethel is within the city grade contour

There is a distance of 35.22 KM between the Bethel allocation reference and the licensed WIAM-FM site Section 73 207 requires co-channel class A and C3

## AREAS AND POPULATION

WIAM-FM operates as a maximum Class A facility. Within the 60 dBu contour there are 44,005 persons within 2,529.6 SQ KM. From the proposed Bethel allocation reference, within the proposed 60 dBu contour there are 215,225 persons within 4,798.29 SQ KM

## WINDSOR AND BETHEL BROADCAST SERVICES

This instant proposal will be the first broadcast service allocated to Bethel, NC. At Windsor, NC, after WIAM-FM is removed, two broadcast services will remain. They are: WBTE (AM), 990 kHz and WURB (FM), 97.7 MHz. The reallocation of WIAM-FM will leave Windsor with one AM and one FM broadcast station. Windsor, NC has a population of 2,283 persons.

A study was made to analyze the number of services remaining to the WIAM-FM loss area. 100% of the loss area is served by five or more broadcast stations.

## TOWN OF BETHEL, NC

The town of Bethel, NC is located in northern Pitt County. The town was incorporated in 1873. The town has a mayor town council. Under the Public Works heading, Bethel has a Sanitation Department, Streets Department and a Water & Sewer Department. Under the heading of safety, Bethel has a Police Department, Volunteer Fire Department and a Rescue Squad. The 2000 Census lists Bethel, NC as having 1,681 residents. In the heart of Bethel is the Bethel Elementary School. Clubs and civic organizations such as Masonic Lodge,

Rotary Club, Boy Scouts and Cub Scouts are organized in Bethel. The Bethel library is in the building that formerly was the train station. The primary industry in Bethel is agriculture.

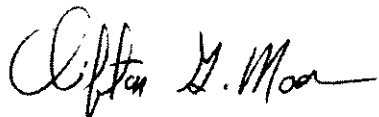
Bethel is not located in any urbanized area. However, it is relatively close to the Greenville, North Carolina Urbanized Area. From the proposed allocation reference, less than 50% of the urbanized area is within the theoretical 70 dBu contour.

#### PROPOSAL

It is therefore requested that the following changes of the FM Table of Allotments, Section 73.202, be made.

<u>City</u>	<u>Present</u>	<u>Proposed</u>
Windsor, NC	249A, 255A	249A
Bethel, NC	none	255C3

All information contained herein is thought to be true and accurate to the knowledge of the undersigned.



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Clifton G. Moor  
Bromo Communications, Inc.

December 29, 2003

## EXHIBIT 1

Searching for WIAM  
Center of Bethel, NC

## REFERENCE

35 48 25 N

CLASS = C3

## DISPLAY DATES

DATA 10-04-03

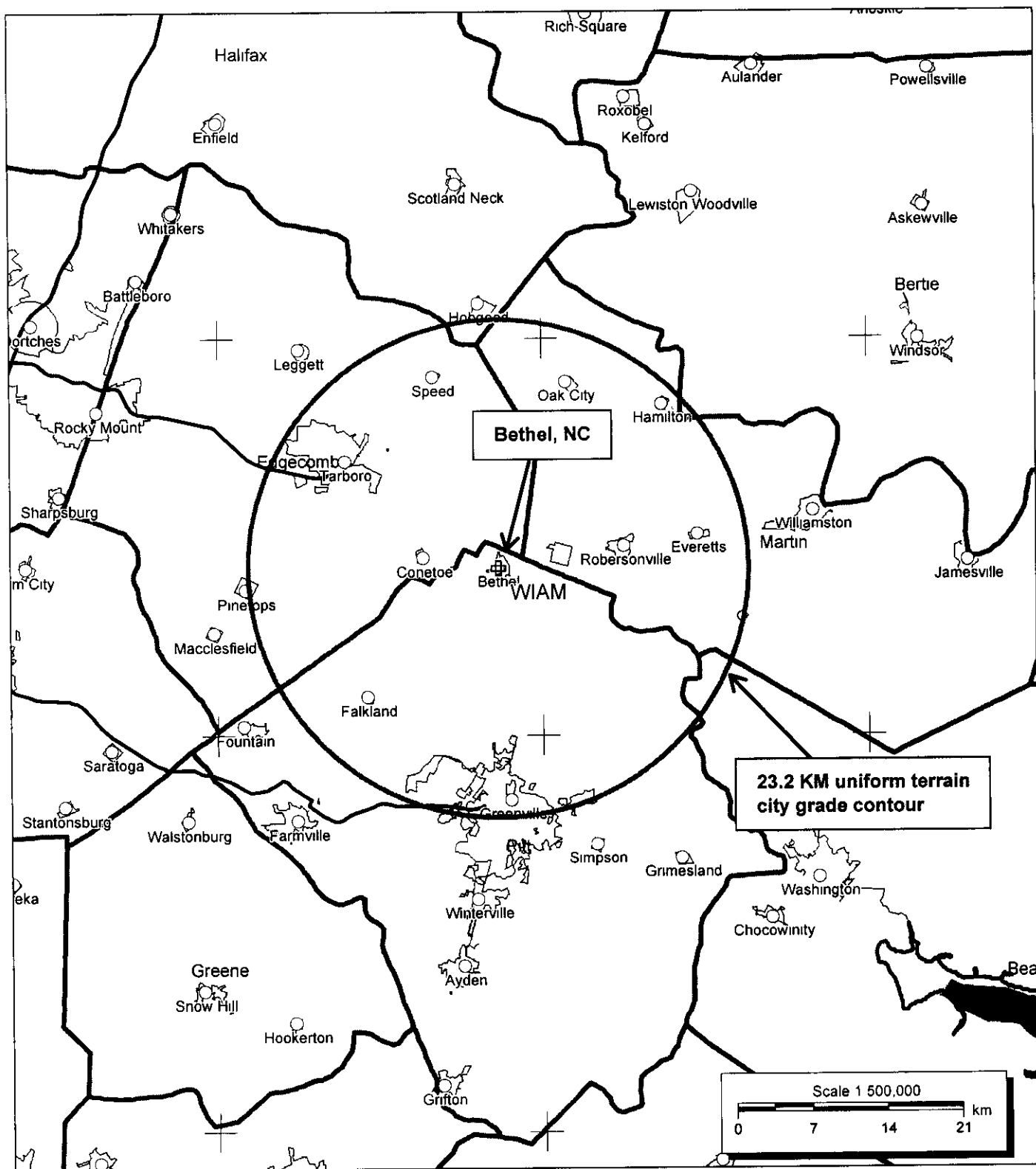
77 22 44 W

Current Spacings

SEARCH 10-08-03

----- Channel 255 - 98.9 MHz -----

Call	Channel	Location	Dist	Azi	FCC	Margin
N. Lat.	W. Lng.	Ant	Power	HAAT		
WIAMFM LIC	255A	Windsor	NC	35.22	71.5	142.0 -106.78
35 54 25	77 00 32	CN	6.000 kW	100 M		
Lifeline Ministries, Inc. BMLH19900418KC						
WKSJFM LIC-N	255C3	South Hill	VA	125.55	326.3	153.0 -27.45
36 44 39	78 09 42	NCN	15.000 kW	95 M		
Old Belt Broadcasting Corp BLH19950119KC						
RDEL DEL	255C3	South Hill	VA	125.55	326.3	153.0 -27.45
36 44 39	78 09 42		25.000 kW	100 M		
WKSJ, South Hill, VA was ordered to Channel 270 A in Docket 03-47 released 07/03/03						
WSAYFM LIC	253C3	Rocky Mount	NC	42.81	286.0	43.0 -0.19
35 54 43	77 50 06	CN	16.000 kW	125 M		
First Media Radio, LLC BLH19951122KA						
Rounds to No Shortage						
WKOJ LIC	254C1	Jacksonville	NC	145.92	183.9	144.0 1.92
34 29 41	77 29 19	CN	100.000 kW	297 M		
Nm Licensing, LLC BLH19990401KE						
WCZI LIC	252A	Washington	NC	46.61	139.6	42.0 4.61
35 29 14	77 02 42	CN	1.350 kW	149 M		
Abg North Carolina, LLC BLH19890227KF						
WNOR LIC	254B	Norfolk	VA	151.35	40.7	145.0 6.35
36 50 03	76 16 12	CN	46.000 kW	158 M		
Tidewater Communications, BLH19810406AH						
WNOR.A APP	254B	Norfolk	VA	151.39	40.7	145.0 6.39
36 50 04	76 16 11	CX	46.000 kW	158 M		
Tidewater Communications, BPH20030710ABA						
RADD ADD	257A	Nashville	NC	54.59	287.2	42.0 12.59
35 57 01	77 57 26		6.000 kW	100 M		
WXNR LIC	258C2	Grifton	NC	69.33	165.5	56.0 13.33
35 12 07	77 11 15	CN	16.500 kW	257 M		
Wxnr License Limited Partn BLH19890925KH						



**Exhibit #2**  
**City Grade Coverage**  
**Proposed Rule Making**  
**255C3 - 25 KW - 100 M HAAT**  
**Bethel, North Carolina**

**Bromo Communications, Inc.**

Atlanta, Georgia  
 October 2003

## **ATTACHMENT B**

### **Representative List of Businesses in Bethel**

Peoples National Bank, 122 West Andrews Street

Southern Bank & Trust Company, 7458 Main Street

Pitt County ABC Board #5, 7449 Main Street

Piggly Wiggly (Grocery) of Bethel, 7459 Main Street

Eastern Laundries, 250 West Andrews Street

Walker Funeral Home, 3799 James Street

La Cassetta Italian Restaurant, 106 N Main

Da-Nite Lunch, NC Hwy 11

Wynnes Chevrolet, Main & Hwy.64

Whittakers 66 Svc. Station, Hwy 64

Bethel Pharmacy, 104 W. Railroad

John H. Taylor, Jr. (Used Cars), 235 South Main Street

House's Fish Market, 238 South Main Street

United Machine Works, Inc., 155 West Railroad Street

Lorraine's Hairstyling, 117 West Railroad Street

City Barber Shop, 105 West Railroad Street

Bethel Variety, 7408 Main Street

Thrifty Mart Food Stores, 213 East Washington Street

F&H Convenience Store, 125 East Washington Street

Sprint, 124 East Jefferson Street